

DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3088. Mr. BINGAMAN (for Mr. CONRAD) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3089. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3090. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3091. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3092. Mr. KENNEDY (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3093. Mr. SCHUMER (for himself and Mrs. CLINTON) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3094. Mr. DURBIN (for himself and Mr. SMITH of Oregon) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3095. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3096. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3097. Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3098. Mr. BINGAMAN (for Mr. KENNEDY) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3099. Mr. BINGAMAN (for Mr. KERRY (for himself and Ms. LANDRIEU)) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3100. Mr. BINGAMAN (for Mr. WELLSTONE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3101. Mr. BINGAMAN (for Mr. CONRAD) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3102. Mr. BINGAMAN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3103. Mr. KENNEDY (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3104. Mr. DODD (for himself and Mr. MCCONNELL) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and

make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

SA 3105. Mr. DODD (for Mr. WYDEN) proposed an amendment to the bill S. 565, supra.

SA 3106. Mr. DODD (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 565, supra.

SA 3107. Mr. MCCONNELL (for Mr. HATCH) proposed an amendment to the bill S. 565, supra.

SA 3108. Mrs. CLINTON proposed an amendment to the bill S. 565, supra.

SA 3109. Mr. MCCONNELL (for Mr. NICKLES) proposed an amendment to the bill S. 565, supra.

SA 3110. Mr. DODD (for Mr. LEVIN) proposed an amendment to the bill S. 565, supra.

SA 3111. Mr. MCCONNELL (for Mr. GRASSLEY) proposed an amendment to the bill S. 565, supra.

SA 3112. Mr. MCCONNELL (for Mr. SMITH of New Hampshire) proposed an amendment to the bill S. 565, supra.

SA 3113. Mr. MCCONNELL (for Mr. THOMAS) proposed an amendment to the bill S. 565, supra.

TEXT OF AMENDMENTS

SA 3085. Mr. CRAPO (for himself and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2989 proposed by Mrs. FEINSTEIN (for herself, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, Mr. LEAHY, Mr. DURBIN, Mr. FITZGERALD, and Mr. CORZINE) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike the text of amendment no. 2989 and in lieu thereof at the end of the bill, add the following:

“SEC. . AMENDMENTS TO COMMODITY EXCHANGE ACT.

“(a) **STUDY REQUIRED.**—The Chairman of the Federal Reserve Board, the Chairman of the Commodity Futures Trading Commission, and the Chairman of the Securities and Exchange Commission, within 45 days of the date of enactment of this Act, shall conduct a study and report to the Congress recommendations, if any, for legislative changes in the regulation under the Commodity Exchange Act of those commodities described in section 1a(14) of such Act (7 U.S.C. 1a).” The report shall be transmitted to the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the Senate Committee on Agriculture Nutrition and Forestry.

SA 3086. Mrs. LINCOLN (for herself and Mr. HUTCHINSON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize

funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title V, add the following:

SEC. 5 . DECOMMISSIONING PILOT PROGRAM.

(a) **AUTHORIZATION.**—The Secretary shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning report dated August 31, 1998, issued by the Department of Energy.

(b) **FUNDING.**—Of funds made available to the Department of Energy for fiscal year 2003, \$16,000,000 shall be made available to carry out the decommissioning pilot program under subsection (a)

SA 3087. Mr. DORGAN (for himself, and Mr. MURKOWSKI) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; as follows:

On page 11, strike lines 9 through 14, and insert the following:

“(1) identifying the area with the greatest energy resource potential, and assessing future supply availability and demand requirements.

“(2) planning, coordinating, and siting additional energy infrastructure, including generating facilities, electric transmission facilities, pipelines, refineries, and distributed generation facilities to maximize the efficiency of energy resources and infrastructure and meet regional needs with the minimum adverse impacts on the environment.”.

SA 3088. Mr. BINGAMAN (for Mr. CONRAD) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 64, on line 7, strike “resource” and insert “resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.”

SA 3089. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning with line 5 on page 564, strike through line 4 on page 568.

SA 3090. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, line 21 strike "and" and all that follows through page 81, line 2, and insert:

"(h) NATIONAL ACADEMY OF SCIENCES STUDY.—Within 90 days after the enactment of this Act, the Secretary of the Interior shall contract with the National Academy of Sciences to study the potential for the development of wind, solar, and ocean energy on the Outer Continental Shelf, assess existing federal authorities for the development of such resources; and recommend statutory and regulatory mechanisms for such development. The results of the study shall be transmitted to Congress within 24 months after the enactment of this Act."

SA 3091. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN), to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 185, between lines 8 and 9, insert the following:

SEC. 816A. CLEANER SCHOOL BUSES.

(a) ANTI-IDLING.—

(1) DEFINITION OF IDLING.—In this subsection, the term "idling" means not turning off an engine while remaining stationary for more than approximately 3 minutes.

(2) POLICY.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy to reduce the incidence of school buses idling at schools when picking up and unloading students.

(b) PURCHASING COOPERATIVES AND ULTRA-LOW SULFUR DIESEL FUEL.—The Secretary of Education, in collaboration with the Secretary of Transportation, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall provide information and model examples to States on purchasing cooperatives for—

(1) new school buses; and

(2) ultra-low sulfur diesel fuel for all diesel school buses.

(c) LOCAL EDUCATIONAL AGENCY GRANT PROGRAM FOR CLEANER SCHOOL BUSES.—

(1) ESTABLISHMENT.—From amounts appropriated under paragraph (10), the Secretary of Energy, in collaboration with the Secretary of Transportation, the Secretary of Education, and the Administrator of the Environmental Protection Agency, shall establish a program (referred to in this subsection as the "program") to award grants to local educational agencies to reduce emissions from diesel school buses by retrofitting existing diesel school buses with the most appropriate control technology that has been recognized by the Environmental Protection Agency or the California Air Resources Board (referred to in this section as the

"most appropriate control technology") to ensure the highest possible reduction in harmful emissions and the greatest benefits to human health and the environment.

(2) CONSORTIA.—A local educational agency may work in collaboration with other local educational agencies to establish a consortia to apply for a grant under this subsection.

(3) APPLICATION.—

(A) SUBMISSION.—A local educational agency, or consortia of such agencies, that desires to receive a grant under this subsection shall submit an application to the Secretary of Energy at such time, in such manner, and containing such information as the Secretary of Energy, in collaboration with the Secretary of Education, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency, may require.

(B) CONTENTS.—An application submitted under subparagraph (A) shall include a grant proposal with—

(i) information on the population the applicant intends to target as beneficiaries of retrofitting existing diesel school buses with the most appropriate control technology;

(ii) the age of the existing diesel school bus fleet in the geographical area in which the local educational agency, or consortia of such agencies, operates;

(iii) information on the type of technology that will be used and the expected cost of retrofitting existing diesel school buses with the most appropriate control technology;

(iv) documentation that the applicant will use ultra-low sulfur diesel fuel if the applicant intends to retrofit existing diesel school buses with pollution control devices that are sensitive to sulfur; and

(v) information on the plans for continuing activities under this section after completion of the grant period.

(4) AWARDING OF GRANTS.—The Secretary of Energy, in collaboration with the Secretary of Education, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency, shall consider the following factors when awarding a grant under this subsection:

(A) Ambient air quality in the geographical area in which the local educational agency, or consortia of such agencies, operates.

(B) Age of the existing diesel school bus fleet in the geographical area in which the local educational agency, or consortia of such agencies, operates.

(C) Population density in the geographical area in which the local educational agency, or consortia of such agencies, operates.

(D) Approximate amount of time children spend on existing diesel school buses in the geographical area in which the local educational agency, or consortia of such agencies, operates.

(5) USE OF FUNDS.—Each local educational agency, or consortia of such agencies, awarded a grant under this subsection may use the grant funds for—

(A) purchasing the most appropriate control technology for existing diesel school buses, through a purchasing cooperative or other mechanism;

(B) the costs to buy and the labor costs to install and maintain the most appropriate control technology on existing diesel school buses; and

(C) if the local educational agency, or consortia of such agencies, intends to retrofit existing diesel school buses with pollution control devices that are sensitive to sulfur, costs incurred in the purchase of ultra-low sulfur diesel fuel that are above the costs that would be incurred in the purchase of non-ultra-low sulfur diesel fuel.

(6) CONDITIONS FOR GRANTS.—Each local educational agency, or consortia of such

agencies, awarded a grant under this subsection shall demonstrate, in a manner that the Secretary of Energy (in collaboration with the Secretary of Education, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency) shall specify, that the local educational agency, or consortia of such agencies, has retrofitted a sufficient number of existing diesel school buses with the most appropriate control technology in a given geographic area such that significant data can be gathered to monitor and assess improvements in air quality.

(7) STATE OR LOCAL ENVIRONMENTAL DEPARTMENTS.—A local educational agency, or consortia of such agencies, may receive assistance from State or local environmental departments—

(A) when applying for a grant under this subsection; and

(B) in carrying out activities authorized under this subsection if awarded a grant under this subsection.

(8) EVALUATION.—

(A) CONTRACT.—The Administrator of the Environmental Protection Agency, in collaboration with the Secretary of Energy, the Secretary of Transportation, and the Secretary of Education, shall enter into a contract with an appropriate independent research entity to conduct an evaluation of the program throughout the program period that includes the testing of individual school buses.

(B) ANALYSIS.—The evaluation under subparagraph (A) shall include an analysis of any improvements in air quality as a result of the program.

(9) STUDY.—

(A) IN GENERAL.—From amounts appropriated under paragraph (10), the Administrator of the Environmental Protection Agency, in collaboration with the Secretary of Education, the Secretary of Energy, and the Secretary of Transportation, shall—

(i) enter into a contract with an appropriate independent research entity to conduct a study to explore the health, environmental, and economic costs and benefits of a national program to retrofit existing diesel school buses with the most appropriate control technology; and

(ii) submit a report to Congress on the study conducted under clause (i) not later than 1 year after the date of enactment of this section.

(10) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection—

(i) \$80,000,000 for fiscal year 2003;

(ii) \$70,000,000 for fiscal year 2004;

(iii) \$60,000,000 for fiscal year 2005; and

(iv) \$50,000,000 for fiscal year 2006.

(B) AMOUNTS TO REMAIN AVAILABLE.—Amounts appropriated under this subsection shall remain available until expended.

SA 3092. Mr. KENNEDY (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table, as follows:

At the end of title XXV, add the following:

SEC. . BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is

amended by inserting after section 48A the following:

"SEC. 48B. BROADBAND CREDIT.

"(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

"(1) the current generation broadband credit, plus

"(2) the next generation broadband credit.

"(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

"(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

"(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

"(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

"(A) current generation broadband services are provided through such equipment to qualified subscribers, or

"(B) next generation broadband services are provided through such equipment to qualified subscribers.

"(2) LIMITATION.—

"(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

"(i) the original use of which commences with the taxpayer, and

"(ii) which is placed in service, after December 31, 2002.

"(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

"(i) is originally placed in service after December 31, 2002, by a person, and

"(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease-back referred to in clause (ii).

"(d) SPECIAL ALLOCATION RULES.—

"(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

"(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the quali-

fied equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of—

"(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

"(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

"(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

"(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

"(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

"(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

"(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

"(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means a person who purchases broadband services which are delivered to the permanent place of business of such person.

"(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

"(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the wireless transmission of energy through radio or light waves.

"(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

"(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

"(A) a cable operator,

"(B) a commercial mobile service carrier,

"(C) an open video system operator,

"(D) a satellite carrier,

"(E) a telecommunications carrier, or

"(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

"(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to a subscriber if—

"(A) a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

"(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such subscribers without making more than an insignificant investment with respect to any such subscriber,

"(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

"(D) such services have been purchased by one or more such subscribers, and

"(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

"(13) QUALIFIED EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

"(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

"(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

"(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

"(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

"(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

"(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

"(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

"(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and

demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptations, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

“(14) QUALIFIED EXPENDITURE.—

“(A) IN GENERAL.—The term ‘qualified expenditure’ means any amount—

“(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

“(ii) incurred after December 31, 2002, and before January 1, 2004.

“(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

“(C) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee that otherwise would be described in subparagraph (A).

“(15) QUALIFIED SUBSCRIBER.—The term ‘qualified subscriber’ means—

“(A) with respect to the provision of current generation broadband services—

“(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) a residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

“(B) with respect to the provision of next generation broadband services—

“(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) a residential subscriber.

“(16) RESIDENTIAL SUBSCRIBER.—The term ‘residential subscriber’ means an individual who purchases broadband services which are delivered to such individual's dwelling.

“(17) RURAL AREA.—The term ‘rural area’ means any census tract which—

“(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

“(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

“(18) RURAL SUBSCRIBER.—The term ‘rural subscriber’ means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

“(19) SATELLITE CARRIER.—The term ‘satellite carrier’ means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

“(20) SATURATED MARKET.—The term ‘saturated market’ means any census tract in which, as of the date of the enactment of this section—

“(A) current generation broadband services have been provided by one or more providers

to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

“(B) such services can be utilized—

“(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

“(21) SUBSCRIBER.—The term ‘subscriber’ means a person who purchases current generation broadband services or next generation broadband services.

“(22) TELECOMMUNICATIONS CARRIER.—The term ‘telecommunications carrier’ has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

“(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

“(B) does not include a commercial mobile service carrier.

“(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term ‘total potential subscriber population’ means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

“(24) UNDERSERVED AREA.—The term ‘underserved area’ means any census tract which is located in—

“(A) an empowerment zone or enterprise community designated under section 1391,

“(B) the District of Columbia Enterprise Zone established under section 1400,

“(C) a renewal community designated under section 1400E, or

“(D) a low-income community designated under section 45D.

“(25) UNDERSERVED SUBSCRIBER.—The term ‘underserved subscriber’ means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

“(f) DESIGNATION OF CENSUS TRACTS.—The Secretary shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraphs (17), (20), and (24) of subsection (e). In making such designations, the Secretary shall consult with such other departments and agencies as the Secretary determines appropriate.”

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit), as amended by this Act, is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting “, and”, and by adding at the end the following:

“(5) the broadband credit.”

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking “or” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, or”, and by adding at the end the following:

“(v) from the sale of property subject to a lease described in section 48B(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48B for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.”

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48A the following:

“Sec. 48B. Broadband credit.”

(e) REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48B of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband credit under section 48B of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48B of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48B of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48B of such Code.

Until the Secretary prescribes such regulations, taxpayers may base such determinations on any reasonable method that is consistent with the purposes of section 48B of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2002, and before January 1, 2004.

SA 3093. Mr. SCHUMER (for himself and Mrs. CLINTON) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of title VI, add the following:

SEC. 6. PROHIBITION OF OIL AND GAS DRILLING IN THE FINGER LAKES NATIONAL FOREST, NEW YORK.

No Federal permit or lease shall be issued for oil or gas drilling in the Finger Lakes National Forest, New York.

SA 3094. Mr. DURBIN (for himself and Mr. SMITH of Oregon) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 523, between lines 16 and 17, insert the following:

SEC. 1704. CONSUMER ENERGY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the “Consumer Energy Commission”.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be comprised of 11 members.

(2) APPOINTMENTS IN THE SENATE AND THE HOUSE.—The majority leader and the minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 2 members—

(A) 1 of whom shall represent consumer groups focusing on energy issues; and

(B) 1 of whom shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint 3 members.

(A) 1 of whom shall represent consumer groups focusing on energy issues;

(B) 1 of whom shall represent the energy industry; and

(C) 1 of whom shall represent the Department of Energy.

(4) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) TERM.—A member shall be appointed for the life of the Commission.

(d) INITIAL MEETING.—Not later than 20 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(f) ADMINISTRATIVE EXPENSES.—The Department of Energy will pay expenses as necessary to carry out this section, with the expenses not to exceed \$400,000.

(g) DUTIES.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a nationwide study of significant price spikes since 1990 in major United States consumer energy products, including electricity, gasoline, home heating oil, natural gas and propane.

(B) MATTERS TO BE STUDIED.—The study shall focus on the causes of large fluctuations and sharp spikes in prices, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, regulatory failures, demand growth, reliance on imported supplies, insufficient availability of alternative energy sources, abuse of market power, market concentration and any other relevant market failures.

(2) REPORT.—Not later than 180 days after the date of the first meeting of the Commission, the Commission shall submit to Congress a report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) recommendations for legislation, administrative actions, and voluntary actions by industry and consumers to protect consumers (including individuals, families, and businesses) from future price spikes in consumer energy products.

(3) CONSULTATION.—In conducting the study and preparing the report under this section, the Commission shall consult with the Federal Trade Commission, the Federal Energy Regulatory Commission, the Department of Energy and other Federal agencies as appropriate.

(h) SUNSET.—The Commission shall terminate within 30 days after the submission of the report to Congress.

SA 3095. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize

funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, which was ordered to lie on the table, as follows:

In section 2310, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting “(January 1, 2008, in the case of qualified fuel described in subsection (c)(1)(C))” after “January 1, 2003”.

SA 3096. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table, as follows:

At the end of title XXIII insert the following:

SEC. ____. CLARIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) DEFINITIONS RELATED TO COAL.—Subsection (c) of section 29 (relating to definition of qualified fuels) is amended by adding at the end the following new paragraph:

“(4) DEFINITIONS RELATED TO COAL.—

“(A) SOLID SYNTHETIC FUELS PRODUCED FROM COAL.—The term ‘solid synthetic fuels produced from coal’ includes a solid synthetic fuel produced from coal and coal waste sludge.

“(B) COAL WASTE SLUDGE.—The term ‘coal waste sludge’ means the tar decanter sludge and related byproducts of the coking process that are treated as hazardous wastes under applicable Federal environmental rules, absent processing with coal into a solid synthetic fuel.”

(b) FACILITY DEFINITION.—Subsection (g) of section 29 (related to extension for certain facilities) is amended by adding at the end the following new paragraph:

“(3) FACILITY.—For purposes of paragraph (1), the term ‘facility’ includes a plant that processes coal and coal waste sludge into a solid synthetic fuel for use as a feedstock for the manufacture of coke, except to the extent that a credit would otherwise be allowed under this section for the production of the coke.”

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply as if included in section 231 of the Crude Oil Windfall Profits Tax Act of 1980.

(2) The amendment made by subsection (b) shall apply as if included in section 1918 of the Energy Policy Act of 1992.

SA 3097. Mr. DAYTON (for himself Mr. WELLSTONE and Mr. FEINGOLD) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the appropriate place in title II, insert the following:

SEC. 2 ____. ADDITIONAL ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is

amended by striking paragraph (4) and inserting the following:

“(4) APPROVAL.—

“(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will advance the public interest, the Commission shall approve the transaction.

“(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

“(i)(I) enhance competition in wholesale electricity markets; and

“(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

“(ii) produce significant gains in operational and economic efficiency; and

“(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.”

SA 3098. Mr. BINGAMAN (for Mr. KENNEDY) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 80, line 20 and 21, strike “development; and” and all that follows through page 81, line 2, and insert the following:

“development.

“(h) NATIONAL ACADEMY OF SCIENCES STUDY.—Within 90 days after the enactment of this Act, the Secretary of the Interior shall contract with the National Academy of Sciences to study the potential for the development of wind, solar, and ocean energy on the Outer Continental Shelf; assess existing federal authorities for the development of such resources; and recommend statutory and regulatory mechanisms for such development. The results of the study shall be transmitted to Congress within 24 months after the enactment of this Act.”

SA 3099. Mr. BINGAMAN (for Mr. KERRY (for himself and Ms. LANDRIEU) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 292, line 18, insert after the word “label” the following: “, including special outreach to small businesses;”.

SA 3100. Mr. BINGAMAN (for Mr. WELLSTONE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 252, strike section 904 and insert the following:

SEC. 904. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local

government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency, identify and develop alternative renewable and distributed energy supplies, and increase energy conservation in low income rural and urban communities.

(b) **PURPOSE OF GRANTS.**—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative renewable and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) **DEFINITION.**—For purposes of this section, the term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy an amount not to exceed \$20 million for fiscal year 2003 and each fiscal year thereafter through fiscal year 2005.

SA 3101. Mr. BINGAMAN (for Mr. CONRAD) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 408, line 20, strike “2006.” and insert the following: “2006, of which \$100,000,000 may be allocated to meet the goals of subsection (b)(1).”.

SA 3102. Mr. BINGAMAN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 258, line 1, strike Sec. 912 in its entirety and insert the following:

SEC. 912. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

“(e) **METERING OF ENERGY USE.**—

“(1) **DEADLINE.**—By October 1, 2004, all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered in accordance with guidelines established by the Secretary under paragraph (2). Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices

that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing federal energy tracking systems and made available to federal facility energy managers.

“(2) **GUIDELINES.**—

“(A) **IN GENERAL.**—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Service Administration and representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, national laboratories, universities and federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

“(B) **REQUIREMENTS FOR GUIDELINES.**—The guidelines shall—

“(i) take into consideration—

“(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

“(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

“(III) the measurement and verification protocols of the Department of Energy;

“(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

“(iii) establish 1 or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

“(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimus quantity of energy use of a Federal building, industrial process, or structure.

“(3) **PLAN.**—No later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (a) how the agency will designate personnel primarily responsible for achieving the requirements and (b) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.”.

SA 3103. Mr. KENNEDY (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXV, add the following:

SEC. ____ BROADBAND INTERNET ACCESS TAX CREDIT.

(a) **IN GENERAL.**—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following:

“SEC. 48B. BROADBAND CREDIT.

“(a) **GENERAL RULE.**—For purposes of section 46, the broadband credit for any taxable year is the sum of—

“(1) the current generation broadband credit, plus

“(2) the next generation broadband credit.

“(b) **CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.**—For purposes of this section—

“(1) **CURRENT GENERATION BROADBAND CREDIT.**—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

“(2) **NEXT GENERATION BROADBAND CREDIT.**—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

“(c) **WHEN EXPENDITURES TAKEN INTO ACCOUNT.**—For purposes of this section—

“(1) **IN GENERAL.**—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

“(A) current generation broadband services are provided through such equipment to qualified subscribers, or

“(B) next generation broadband services are provided through such equipment to qualified subscribers.

“(2) **LIMITATION.**—

“(A) **IN GENERAL.**—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

“(i) the original use of which commences with the taxpayer, and

“(ii) which is placed in service, after December 31, 2002.

“(B) **SALE-LEASEBACKS.**—For purposes of subparagraph (A), if property—

“(i) is originally placed in service after December 31, 2002, by a person, and

“(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

“(d) **SPECIAL ALLOCATION RULES.**—

“(1) **CURRENT GENERATION BROADBAND SERVICES.**—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

“(2) **NEXT GENERATION BROADBAND SERVICES.**—For purposes of determining the next generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of—

“(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

“(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

“(e) DEFINITIONS.—For purposes of this section—

“(1) ANTENNA.—The term ‘antenna’ means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

“(2) CABLE OPERATOR.—The term ‘cable operator’ has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

“(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term ‘commercial mobile service carrier’ means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

“(4) CURRENT GENERATION BROADBAND SERVICE.—The term ‘current generation broadband service’ means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

“(5) MULTIPLEXING OR DEMULTIPLEXING.—The term ‘multiplexing’ means the transmission of 2 or more signals over a single channel, and the term ‘demultiplexing’ means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

“(6) NEXT GENERATION BROADBAND SERVICE.—The term ‘next generation broadband service’ means the transmission of signals at a rate of at least 22,000,000 bits per second (or its equivalent when the data rate is measured before being compressed for transmission) to the subscriber and at least 5,000,000 bits per second (or such equivalent) from the subscriber.

“(7) NONRESIDENTIAL SUBSCRIBER.—The term ‘nonresidential subscriber’ means a person who purchases broadband services which are delivered to the permanent place of business of such person.

“(8) OPEN VIDEO SYSTEM OPERATOR.—The term ‘open video system operator’ means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

“(9) OTHER WIRELESS CARRIER.—The term ‘other wireless carrier’ means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the wireless transmission of energy through radio or light waves.

“(10) PACKET SWITCHING.—The term ‘packet switching’ means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

“(11) PROVIDER.—The term ‘provider’ means, with respect to any qualified equipment—

“(A) a cable operator,

“(B) a commercial mobile service carrier,

“(C) an open video system operator,

“(D) a satellite carrier,

“(E) a telecommunications carrier, or

“(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

“(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to a subscriber if—

“(A) a subscriber has been passed by the provider’s equipment and can be connected to such equipment for a standard connection fee,

“(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such subscribers without making more than an insignificant investment with respect to any such subscriber,

“(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

“(D) such services have been purchased by one or more such subscribers, and

“(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

“(13) QUALIFIED EQUIPMENT.—

“(A) IN GENERAL.—The term ‘qualified equipment’ means equipment which provides current generation broadband services or next generation broadband services—

“(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

“(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

“(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

“(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

“(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

“(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

“(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

“(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and

is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptations, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber’s premises.

“(14) QUALIFIED EXPENDITURE.—

“(A) IN GENERAL.—The term ‘qualified expenditure’ means any amount—

“(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

“(ii) incurred after December 31, 2002, and before January 1, 2004.

“(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

“(C) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee that otherwise would be described in subparagraph (A).

“(15) QUALIFIED SUBSCRIBER.—The term ‘qualified subscriber’ means—

“(A) with respect to the provision of current generation broadband services—

“(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) a residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

“(B) with respect to the provision of next generation broadband services—

“(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) a residential subscriber.

“(16) RESIDENTIAL SUBSCRIBER.—The term ‘residential subscriber’ means an individual who purchases broadband services which are delivered to such individual’s dwelling.

“(17) RURAL AREA.—The term ‘rural area’ means any census tract which—

“(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

“(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

“(18) RURAL SUBSCRIBER.—The term ‘rural subscriber’ means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

“(19) SATELLITE CARRIER.—The term ‘satellite carrier’ means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

“(20) SATURATED MARKET.—The term ‘saturated market’ means any census tract in which, as of the date of the enactment of this section—

“(A) current generation broadband services have been provided by one or more providers to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

“(B) such services can be utilized—

“(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

“(21) SUBSCRIBER.—The term ‘subscriber’ means a person who purchases current generation broadband services or next generation broadband services.

“(22) TELECOMMUNICATIONS CARRIER.—The term ‘telecommunications carrier’ has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

“(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

“(B) does not include a commercial mobile service carrier.

“(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term ‘total potential subscriber population’ means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

“(24) UNDERSERVED AREA.—The term ‘underserved area’ means any census tract which is located in—

“(A) an empowerment zone or enterprise community designated under section 1391,

“(B) the District of Columbia Enterprise Zone established under section 1400,

“(C) a renewal community designated under section 1400E, or

“(D) a low-income community designated under section 45D.

“(25) UNDERSERVED SUBSCRIBER.—The term ‘underserved subscriber’ means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

“(f) DESIGNATION OF CENSUS TRACTS.—The Secretary shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraphs (17), (20), and (24) of subsection (e). In making such designations, the Secretary shall consult with such other departments and agencies as the Secretary determines appropriate.”.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit), as amended by this Act, is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting “, and”, and by adding at the end the following: “(5) the broadband credit.”

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking “or” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, or”, and by adding at the end the following:

“(v) from the sale of property subject to a lease described in section 48B(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48B for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.”.

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this

Act, is amended by inserting after the item relating to section 48A the following:

“Sec. 48B. Broadband credit.”.

(e) REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48B of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband credit under section 48B of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48B of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48B of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48B of such Code.

Until the Secretary prescribes such regulations, taxpayers may base such determinations on any reasonable method that is consistent with the purposes of section 48B of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2002, and before January 1, 2004.

SA 3104. Mr. DODD (for himself and Mr. McCONNELL) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 15, between lines 2 and 3, insert the following:

(b) VOTERS WHO VOTE AFTER THE POLLS CLOSE.—Any individual who votes in an election for Federal office for any reason, including a Federal or State court order, after the time set for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a).

On page 18, strike lines 17 through 19, and insert the following:

(B)(i) the individual has not previously voted in an election for Federal office in the State; or

(ii) the individual has not previously voted in such an election in the jurisdiction and

the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of section 103(a).

On page 21, strike lines 19 through 23, and insert the following:

(2) REQUIREMENT FOR VOTERS WHO REGISTER BY MAIL.—

(A) IN GENERAL.—Each State and locality shall be required to comply with the requirements of subsection (b) on and after January 1, 2004, and shall be prepared to receive registration materials submitted by individuals described in subparagraph (B) on and after the date described in such subparagraph.

(B) APPLICABILITY WITH RESPECT TO INDIVIDUALS.—The provisions of section (b) shall apply to any individual who registers to vote on or after January 1, 2003.

On page 22, strike line 17, and insert the following:

brought under this Act against such State or locality on the basis

On page 22, after line 25, insert the following:

SEC. ____ . MINIMUM STANDARDS.

The requirements established by this title are minimum requirements and nothing in this title shall be construed to prevent a State from establishing election technology and administration requirements, that are more strict than the requirements established under this title, so long as such State requirements are not inconsistent with the Federal requirements under this title or any law described in section 402.

On page 25, strike line 20, and insert the following:

existing Federal laws, as such laws relate to the provisions of this Act, including the following:

On page 27, strike line 11, and insert the following:

(c) SAFE HARBOR.—No action may be brought under this Act.

On page 33, strike line 12, and insert the following:

the following laws, as such laws relate to the provisions of this Act:

On page 34, strike line 23, and insert the following:

(d) SAFE HARBOR.—No action may be brought under this Act.

On page 44, strike line 1, and insert the following:

(d) SAFE HARBOR.—No action may be brought under this Act.

On page 53, between lines 15 and 16, insert the following:

(1) STUDY OF FIRST TIME VOTERS WHO REGISTER BY MAIL.—

(A) STUDY.—

(i) IN GENERAL.—The Commission shall conduct a study of the impact of section 103(b) on voters who register by mail.

(ii) SPECIFIC ISSUES STUDIED.—The study conducted under clause (i) shall include—

(I) an examination of the impact of section 103(b) on first time mail registrant voters who vote in person, including the impact of such section on voter registration;

(II) an examination of the impact of such section on the accuracy of voter rolls, including preventing ineligible names from being placed on voter rolls and ensuring that all eligible names are placed on voter rolls; and

(III) an analysis of the impact of such section on existing State practices, such as the use of signature verification or attestation procedures to verify the identity of voters in elections for Federal office, and an analysis of other changes that may be made to improve the voter registration process, such as verification or additional information on the registration card.

(B) REPORT.—Not later than 18 months after the date on which section 103(b)(2)(A)

takes effect, the Commission shall submit a report to the President and Congress on the study conducted under subparagraph (A)(i) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

On page 68, strike lines 19 and 20, and insert the following:

(a) IN GENERAL.—Except as specifically provided in section 103(b) of this Act with regard to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), nothing in this Act may be construed to authorize

SA 3105. Mr. DODD (for Mr. WYDEN) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 19, strike lines 20 through 24, and insert the following:

(B) FAIL-SAFE VOTING.—

(i) IN PERSON.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 102(a).

(ii) BY MAIL.—An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 102(a).

On page 20, between lines 12 through 13, insert the following:

(B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either—

(I) a driver's license number; or

(II) at least the last 4 digits of the individual's social security number; and

(ii) with respect to whom a State or local election official certifies that the information submitted under clause (i) matches an existing State identification record bearing the same number, name and date of birth as provided in such registration; or

SA 3106. Mr. DODD (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and non-discriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 68, between lines 2 and 3, insert the following:

SEC. ____ STUDY AND REPORT ON PERMANENT REGISTRATION OF OVERSEAS VOTERS; DISTRIBUTION OF OVERSEAS VOTING INFORMATION BY A SINGLE STATE OFFICE; STUDY AND REPORT ON EXPANSION OF SINGLE STATE OFFICE DUTIES.

(a) STUDY AND REPORT ON PERMANENT REGISTRATION OF OVERSEAS VOTERS.—

(1) STUDY.—The Election Administration Commission established under section 301 (in this subsection referred to as the "Commission"), shall conduct a study on the feasibility and advisability of providing for permanent registration of overseas voters under section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1279) and this title.

(2) REPORT.—The Commission shall submit a report to Congress on the study conducted under paragraph (1) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

(b) DISTRIBUTION OF OVERSEAS VOTING INFORMATION BY A SINGLE STATE OFFICE.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1278) and the preceding provisions of this title, is amended by adding at the end the following new subsection:

“(c) DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN THE STATE.—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.”

(c) STUDY AND REPORT ON EXPANSION OF SINGLE STATE OFFICE DUTIES.—

(1) STUDY.—The Election Administration Commission established under section 301 (in this subsection referred to as the "Commission"), shall conduct a study on the feasibility and advisability of making the State office designated under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (b)) responsible for the acceptance of valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from each absent uniformed services voter or overseas voter who wishes to register to vote or vote in any jurisdiction in the State.

(2) REPORT.—The Commission shall submit a report to Congress on the study conducted under paragraph (1) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

SEC. ____ REPORT ON ABSENTEE BALLOTS TRANSMITTED AND RECEIVED AFTER GENERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by the preceding provisions of this title, is amended by adding at the end the following new subsection:

“(d) REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.—Not later than 120 days after the date of each regularly scheduled general election for Federal office,

each State and unit of local government that administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Administration Commission (established under the Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2002) on the number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the number of such ballots that were returned by such voters and cast in the election, and shall make such report available to the general public.”

(b) DEVELOPMENT OF STANDARDIZED FORMAT FOR REPORTS.—The Election Administration Commission shall develop a standardized format for the reports submitted by States and units of local government under section 102(d) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (a)), and shall make the format available to the States and units of local government submitting such reports.

SEC. ____ OTHER REQUIREMENTS TO PROMOTE PARTICIPATION OF OVERSEAS AND ABSENT UNIFORMED SERVICES VOTERS.

Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by the preceding provisions of this title, is amended by adding at the end the following new subsection:

“(e) REGISTRATION NOTIFICATION.—With respect to each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the State rejects the application or request, the State shall provide the voter with the reasons for the rejection.”

SEC. ____ STUDY AND REPORT ON THE DEVELOPMENT OF A STANDARD OATH FOR USE WITH OVERSEAS VOTING MATERIALS.

(a) STUDY.—The Election Administration Commission established under section 301 (in this section referred to as the "Commission"), shall conduct a study on the feasibility and advisability of—

(1) prescribing a standard oath for use with any document under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq) affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury; and

(2) if the State requires an oath or affirmation to accompany any document under such Act, to require the State to use the standard oath described in paragraph (1).

(b) REPORT.—The Commission shall submit a report to Congress on the study conducted under subsection (a) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

SEC. ____ STUDY AND REPORT ON PROHIBITING NOTARIZATION REQUIREMENTS.

(a) STUDY.—The Election Administration Commission established under section 301 (in this section referred to as the "Commission"), shall conduct a study on the feasibility and advisability of prohibiting a State from refusing to accept any voter registration application, absentee ballot request, or absentee ballot submitted by an absent uniformed services voter or overseas voter on the grounds that the document involved is not notarized.

(b) REPORT.—The Commission shall submit a report to Congress on the study conducted under subsection (a) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

SA 3107. Mr. MCCONNELL (for Mr. HATCH) proposed an amendment to the

bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and non-discriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

On page 68, strike lines 3 and 4, and insert the following:

Subtitle C—Advisory Committee on Electronic Voting and the Electoral Process
SEC. 321. ESTABLISHMENT OF COMMITTEE.

(a) **ESTABLISHMENT.**—There is established the Advisory Committee on Electronic Voting and the Electoral Process (in this subtitle referred to as the “Committee”).

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Committee shall be composed of 16 members as follows:

(A) **FEDERAL REPRESENTATIVES.**—Four representatives of the Federal Government, comprised of the Attorney General, the Secretary of Defense, the Director of the Federal Bureau of Investigation, and the Chairman of the Federal Election Commission, or an individual designated by the respective representative.

(B) **INTERNET REPRESENTATIVES.**—Four representatives of the Internet and information technology industries (at least 2 of whom shall represent a company that is engaged in the provision of electronic voting services on the date on which the representative is appointed, and at least 2 of whom shall possess special expertise in Internet or communications systems security).

(C) **STATE AND LOCAL REPRESENTATIVES.**—Four representatives from State and local governments (2 of whom shall be from States that have made preliminary inquiries into the use of the Internet in the electoral process).

(D) **PRIVATE SECTOR REPRESENTATIVES.**—Four representatives not affiliated with the Government (2 of whom shall have expertise in election law, and 2 of whom shall have expertise in political speech).

(2) **APPOINTMENTS.**—Appointments to the Committee shall be made not later than the date that is 30 days after the date of enactment of this Act and such appointments shall be made in the following manner:

(A) **SENATE MAJORITY LEADER.**—Two individuals shall be appointed by the Majority Leader of the Senate, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(B) **SENATE MINORITY LEADER.**—Two individuals shall be appointed by the Minority Leader of the Senate, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(C) **SPEAKER OF THE HOUSE.**—Two individuals shall be appointed by the Speaker of the House of Representatives, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(D) **HOUSE MINORITY LEADER.**—Two individuals shall be appointed by the Minority Leader of the House of Representatives, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(E) **SENATE MAJORITY AND HOUSE MINORITY JOINTLY.**—Two individuals described in paragraph (1)(D) shall be appointed jointly by the Majority Leader of the Senate and the Minority Leader of the House of Representatives.

(F) **HOUSE MAJORITY AND SENATE MINORITY JOINTLY.**—Two individuals described in paragraph (1)(D) shall be appointed jointly by the Speaker of the House of Representatives and the Minority Leader of the Senate.

(3) **DATE.**—The appointments of the members of the Committee shall be made not later than the date that is 30 days after the date of enactment of this Act.

(c) **PERIOD OF APPOINTMENT; VACANCIES.**—Members shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) **INITIAL MEETING.**—Not later than 30 days after the date on which all of the members of the Committee have been appointed, the Committee shall hold its first meeting.

(e) **MEETINGS.**—

(1) **IN GENERAL.**—The Committee shall meet at the call of the Chairperson or upon the written request of a majority of the members of the Committee.

(2) **NOTICE.**—Not later than the date that is 14 days before the date of each meeting of the Committee, the Chairperson shall cause notice thereof to be published in the Federal Register.

(3) **OPEN MEETINGS.**—Each Committee meeting shall be open to the public.

(f) **QUORUM.**—Eight members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(g) **CHAIRPERSON.**—The Committee shall select a Chairperson from among its members by a majority vote of the members of the Committee.

(h) **ADDITIONAL RULES.**—The Committee may adopt such other rules as the Committee determines to be appropriate by a majority vote of the members of the Committee.

SEC. 322. DUTIES OF THE COMMITTEE.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Committee shall conduct a thorough study of issues and challenges, specifically to include the potential for election fraud, presented by incorporating communications and Internet technologies in the Federal, State, and local electoral process.

(2) **ISSUES TO BE STUDIED.**—The Committee may include in the study conducted under paragraph (1) an examination of—

(A) the appropriate security measures required and minimum standards for certification of systems or technologies in order to minimize the potential for fraud in voting or in the registration of qualified citizens to register and vote;

(B) the possible methods, such as Internet or other communications technologies, that may be utilized in the electoral process, including the use of those technologies to register voters and enable citizens to vote online, and recommendations concerning statutes and rules to be adopted in order to implement an online or Internet system in the electoral process;

(C) the impact that new communications or Internet technology systems for use in the electoral process could have on voter participation rates, voter education, public accessibility, potential external influences during the elections process, voter privacy and anonymity, and other issues related to the conduct and administration of elections;

(D) whether other aspects of the electoral process, such as public availability of candidate information and citizen communica-

tion with candidates, could benefit from the increased use of online or Internet technologies;

(E) the requirements for authorization of collection, storage, and processing of electronically generated and transmitted digital messages to permit any eligible person to register to vote or vote in an election, including applying for and casting an absentee ballot;

(F) the implementation cost of an online or Internet voting or voter registration system and the costs of elections after implementation (including a comparison of total cost savings for the administration of the electoral process by using Internet technologies or systems);

(G) identification of current and foreseeable online and Internet technologies for use in the registration of voters, for voting, or for the purpose of reducing election fraud, currently available or in use by election authorities;

(H) the means by which to ensure and achieve equity of access to online or Internet voting or voter registration systems and address the fairness of such systems to all citizens; and

(I) the impact of technology on the speed, timeliness, and accuracy of vote counts in Federal, State, and local elections.

(b) **REPORT.**—

(1) **TRANSMISSION.**—Not later than 20 months after the date of enactment of this Act, the Committee shall transmit to Congress and the Election Administration Commission established under section 301, for the consideration of such bodies, a report reflecting the results of the study required by subsection (a), including such legislative recommendations or model State laws as are required to address the findings of the Committee.

(2) **APPROVAL OF REPORT.**—Any finding or recommendation included in the report shall be agreed to by at least $\frac{2}{3}$ of the members of the Committee serving at the time the finding or recommendation is made.

(3) **INTERNET POSTING.**—The Election Administration Commission shall post the report transmitted under paragraph (1) on the Internet website established under section 303(a)(5).

SEC. 323. POWERS OF THE COMMITTEE.

(a) **HEARINGS.**—

(1) **IN GENERAL.**—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out this subtitle.

(2) **OPPORTUNITIES TO TESTIFY.**—The Committee shall provide opportunities for representatives of the general public, State and local government officials, and other groups to testify at hearings.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out this subtitle. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(c) **POSTAL SERVICES.**—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) **GIFTS.**—

(1) **IN GENERAL.**—The Committee may accept, use, and dispose of gifts or donations of services or property.

(2) **UNUSED GIFTS.**—Gifts or grants not used at the expiration of the Committee shall be returned to the donor or grantor.

SEC. 324. COMMITTEE PERSONNEL MATTERS.

(a) **COMPENSATION OF MEMBERS.**—Each member of the Committee shall serve without compensation.

(b) **TRAVEL EXPENSES.**—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(2) **COMPENSATION.**—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) **PERSONNEL AS FEDERAL EMPLOYEES.**—

(A) **IN GENERAL.**—The executive director and any personnel of the Committee who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) **MEMBERS OF COMMITTEE.**—Subparagraph (A) shall not be construed to apply to members of the Committee.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 325. TERMINATION OF THE COMMITTEE.

The Committee shall terminate 90 days after the date on which the Committee transmits its report under section 322(b)(1).

SEC. 326. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this subtitle not less than \$2,000,000 from the funds appropriated under section 307.

(b) **AVAILABILITY.**—Any sums appropriated under the authorization contained in this subtitle shall remain available, without fiscal year limitation, until expended.

TITLE IV—CRIMINAL PENALTIES; MISCELLANEOUS**SEC. 401. REVIEW AND REPORT ON ADEQUACY OF EXISTING ELECTORAL FRAUD STATUTES AND PENALTIES.**

(a) **REVIEW.**—The Attorney General shall conduct a review of existing criminal statutes concerning election offenses to determine—

(1) whether additional statutory offenses are needed to secure the use of the Internet for election purposes; and

(2) whether existing penalties provide adequate punishment and deterrence with respect to such offenses.

(b) **REPORT.**—The Attorney General shall submit a report to the Judiciary Committees of the Senate and the House of Representatives, the Senate Committee on Rules and Administration, and the House Committee on Administration on the review conducted under subsection (a) together with such recommendations for legislative and administrative action as the Attorney General determines appropriate.

SEC. 402. OTHER CRIMINAL PENALTIES.

SA 3108. Mrs. CLINTON proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

Beginning on page 8, line 19, strike through page 9, line 3, and insert the following:

(5) **ERROR RATES.**—

(A) **IN GENERAL.**—The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall not exceed the error rate standards established under the voting systems standards issued and maintained by the Director of the Office of Election Administration of the Federal Election Commission (as revised by the Director of such Office under subsection (c)).

(B) **RESIDUAL BALLOT PERFORMANCE BENCHMARK.**—In addition to the error rate standards described in subparagraph (A), the Director of the Office of Election Administration of the Federal Election Commission shall issue and maintain a uniform benchmark for the residual ballot error rate that jurisdictions may not exceed. For purposes of the preceding sentence, the residual vote error rate shall be equal to the combination of overvotes, spoiled or uncountable votes, and undervotes cast in the contest at the top of the ballot, but excluding an estimate, based upon the best available research, of intentional undervotes. The Director shall base the benchmark issued and maintained under this subparagraph on evidence of good practice in representative jurisdictions.

(C) **HISTORICALLY HIGH INTENTIONAL UNDERVOTES.**—

(i) The Senate finds that there are certain distinct communities in certain geographic areas that have historically high rates of intentional undervoting in elections for Federal office, relative to the rest of the Nation.

(ii) In establishing the benchmark described in subparagraph (B), the Director of the Office of Election Administration of the Federal Election Commission shall—

(I) study and report to Congress on the occurrences of distinct communities that have significantly higher than average rates of historical intentional undervoting; and

(II) promulgate for local jurisdictions in which that distinct community has a substantial presence either a separate benchmark or an exclusion from the national benchmark, as appropriate.

SA 3109. Mr. MCCONNELL (for Mr. NICKLES) proposed an amendment to

the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 18 between lines 7 and 8, insert:

(4) **TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST.**—The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.

SA 3110. Mr. DODD (for Mr. LEVIN) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 12, strike lines 9 through 19, and insert the following:

(3) An election official at the polling place shall transmit the ballot cast by the individual or voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).

(4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote in the jurisdiction, the individual's provisional ballot shall be counted as a vote in that election.

SA 3111. Mr. MCCONNELL (for Mr. GRASSLEY) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 18, between lines 7 and 8, insert the following:

(4) INTERACTION WITH FEDERAL INFORMATION.—

(A) ACCESS TO FEDERAL INFORMATION.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the Commissioner of Social Security shall provide, upon request from a State or locality maintaining a computerized centralized list implemented under paragraph (1), only such information as is necessary to determine the eligibility of an individual to vote in such State or locality under the law of the State. Any State or locality that receives information under this clause may only share such information with election officials.

(ii) PROCEDURE.—The information under clause (i) shall be provided in such place and such manner as the Commissioner determines appropriate to protect and prevent the misuse of information.

(B) APPLICABLE INFORMATION.—For purposes of this subsection, the term “applicable information” means information regarding whether—

(i) the name and social security number of an individual provided to the Commissioner match the information contained in the Commissioner’s records; and

(ii) such individual is shown on the records of the Commissioner as being deceased.

(C) EXCEPTION.—Subparagraph (A) shall not apply to any request for a record of an individual if the Commissioner determines there are exceptional circumstances warranting an exception (such as safety of the individual or interference with an investigation).

SA 3122. Mr. MCCONNELL (for Mr. SMITH of New Hampshire) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant programs under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. . BROADCASTING FALSE ELECTION INFORMATION.

In carrying out its duty under section 303(a)(1)(G), the Commission, within 6 months after its establishment shall provide a detailed report to the Congress on issues regarding the broadcasting or transmitting by cable of federal election results including broadcasting practices that may result in the broadcast of false information concerning the location or time of operation of a polling place.

SA 3113. Mr. MCCONNELL (for Mr. THOMAS) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improv-

ing election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

At the end, add the following:

SEC. . SENSE OF THE SENATE REGARDING CHANGES MADE TO THE ELECTORAL PROCESS AND HOW SUCH CHANGES IMPACT STATES.

It is the sense of the Senate that—

(1) the provisions of this Act, shall not prohibit States to use curbside voting as a last resort to satisfy the voter accessibility requirements under section 101(a)(3);

(2) the provisions of this Act permit States—

(A) to use Federal funds to purchase new voting machines; and

(B) to elect to retrofit existing voting machines in lieu of purchasing new machines to meet the voting machine accessibility requirements under section 101(a)(3);

(3) nothing in this Act requires States to replace existing voting machines;

(4) nothing under section 101(a) of this Act specifically requires States to install wheelchair ramps or pave parking lots at each polling location for the accessibility needs of individuals with disabilities; and

(5) the Election Administration Commission, the Attorney General, and the Architectural and Transportation Barriers Compliance Board should recognize the differences that exist between urban and rural areas with respect to the administration of Federal elections under this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, April 10, 2002, at 9:30 a.m., to hear testimony on “Issues in TANF Reauthorization: Requiring and Supporting Work.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on the Reauthorization of the Museum and Library Services Act during the session of the Senate on Wednesday, April 10, 2002, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 10, 2002, at 2:30 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Wednesday, April 10, 2002, from

9:30 a.m.–12:00 p.m., in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 10, 2002, at 9 a.m., in open session to receive testimony on technology for combating terrorism and weapons of mass destruction, in review of the Defense authorization request for fiscal year 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 10, 2002, at 2:30 p.m., in open session to receive testimony on the Department of Energy’s Environmental Management Program and the National Nuclear Security Administration’s Defense Program and other weapons activities in review of the Defense authorization request for fiscal year 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, TOXICS, RISK AND WASTE MANAGEMENT

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Superfund, Toxics, Risk, and Waste Management be authorized to meet on Wednesday, April 10, 2002, at 10 a.m., to hold an oversight hearing on the Superfund program. The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DAYTON. Mr. President, I ask unanimous consent that my assistant, Erin McGuire, be granted the privilege of the floor during consideration of amendment No. 3097.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 565

Mr. REID. Mr. President, with respect to S. 565, I ask unanimous consent that the vote sequence occur as previously ordered and that the Senate vote on or in relation to the amendments in order without further intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.